

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
RICHMOND DIVISION

ELETHRIOS SHIZAS,

Plaintiff,

v.

NCO FINANCIAL SYSTEMS, INC.,

Defendant.

CASE NO. 3:13-CV-186

Magistrate Judge M. Hannah Lauck

**MOTION FOR LEAVE TO FILE SEPARATE**  
**MOTIONS FOR SUMMARY JUDGMENT**

Defendant, NCO Financial Systems, Inc. (“NCO”), by counsel and pursuant to Local Rule 56(C), hereby requests leave to file separate motions for summary judgment.

As grounds for this motion, NCO points out that Plaintiff’s complaint, filed March 26, 2013, contains two counts; Count I alleges a violation of the Fair Debt Collection Practices Act (FDCPA), section 15 U.S.C. § 1692d, while Count II alleges a violation of the Telephone Consumer Protection Act, 47 U.S.C. § 227. ECF No. 1, ¶¶ 20-23, 24-28. NCO asserted the statute of limitations as a defense. ECF No. 4, PageID 14.

The complaint alleges NCO called Plaintiff during the four years prior to filing the complaint, without specifying when such calls started or ended. ECF No. 1, ¶¶ 8, 9, 17, 18. Upon information and belief, NCO called Plaintiff during the period between August 6, 2009 and March 13, 2012. Any FDCPA claims premised on calls to the Plaintiff antedating the filing of this action by more than one year are barred by the one year statute of limitations provided in 15 U.S.C. § 1692k(d); *Tapia v. U.S. Bank, N.A.*, 718 F.Supp.2d 689, 701 (E.D.Va. 2010). NCO is prepared to demonstrate grounds exist to dismiss the FDCPA claims and does not require any

further time or discovery to establish a basis to resolve Count I of the complaint. Further, Plaintiff is not expected to dispute when the calls ended.

In contrast, NCO needs additional time to gather evidence and prepare its defense to Plaintiff's TCPA claims.

Addressing the FDCPA claims separately from the TCPA claims will permit the parties to narrow the issues, limit discovery and thereby save time and judicial resources.

For all the foregoing reasons, NCO respectfully requests that it be granted leave to file its motion for summary judgment pursuant to 15 U.S.C. § 1692k(d) on Count I of Plaintiff's complaint separately.

Respectfully submitted,

By:                   "/s/"                    
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*Attorneys for Defendant NCO Financial Systems, Inc.*

CERTIFICATE OF SERVICE

I hereby certify that on the 2nd day of July, 2013, I will electronically file the foregoing with the Clerk of Court using the CM/ECF system, which will then send a notification of such filing (NEF) to the following:

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